

EXHIBIT 9

Picard v. Avellino

Bienes 11/7/2019

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No.

08-01789 (SMB)

SIPA LIQUIDATION

In re:

(Substantively
Consolidated)

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff
Investment Securities LLC and
Bernard L. Madoff,

Plaintiff,

v.

FRANK J. AVELLINO, et al.,

Defendants.

Adv. Pro. No.

10-05421 (SMB)

CONFIDENTIAL TRANSCRIPT
DEPOSITION OF DIANNE BIENES
Pages 1 through 109
(Videotaped)

Thursday, November 7, 2019

9:11 a.m. - 11:47 a.m.

U.S. Legal Support

100 Northeast 3rd Avenue, Suite 1050
Fort Lauderdale, Florida 33301

Stenographically Reported By:
Janet L. McKinney, RPR, FPR, CLR
Registered Professional Reporter
Florida Professional Reporter
Certified LiveNote Reporter

BENDISH REPORTING
877.404.2193

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1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFF:

3 BAKER & HOSTETLER LLP
4 45 Rockefeller Plaza
5 New York, New York 10111-0100
6 212.589.4200
7 Rgriffin@bakerlaw.com
8 Cgallagher@bakerlaw.com
9 BY: REGINA L. GRIFFIN, ESQ.
10 CHRISTOPHER B. GALLAGHER, ESQ.
11

12 ON BEHALF OF THE DEFENDANTS BIENES:

13 HAILE SHAW & PFAFFENBERGER
14 66 U.S. Highway One
15 3rd Floor
16 North Palm Beach, Florida 33408
17 561.627.8100
18 Tresk@haileshaw.com
19 BY: TERRY RESK, ESQ.
20

21 Also Present:

22 Jason Cooper, Videographer
23 Bendish Reporting
24
25

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1 Videotape deposition taken before JANET L.
2 McKINNEY, Registered Professional Reporter, Florida
3 Professional Reporter, Certified LiveNote Reporter and
4 Notary Public in and for the State of Florida at Large
5 in the above cause.

6 *****

7 THE VIDEOGRAPHER: Good morning. We are now
8 on the record. Today is Thursday, November 7,
9 2019. The time is 9:11 a.m.

10 My name is Jason Cooper, the video technician
11 in association with Bendish Reporting. This
12 deposition is being held at the office of U.S.
13 Legal Support located at 100 Northeast 3rd Avenue,
14 Suite 1050, Fort Lauderdale, Florida.

15 The caption of the case: Irving H. Picard,
16 Trustee for the Substantively Consolidated SIPA
17 Liquidation of Bernard L. Madoff Investment
18 Securities LLC and Bernard L. Madoff, Plaintiff,
19 versus Frank J. Avellino, et al., Defendants, filed
20 in the United States Bankruptcy Court, Southern
21 District of New York, Adversary Proceeding No.
22 08-01789 (SMB). Name of the witness is Dianne
23 Bienes.

24 At this time the attorneys present will
25 identify themselves and the parties they represent.

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1 Then the court reporter, Janet McKinney, will swear
2 in the witness.

3 MS. GRIFFIN: Good morning. Regina Griffin,
4 BakerHostetler, counsel for the Trustee.

5 MR. GALLAGHER: Chris Gallagher,
6 BakerHostetler for the Trustee.

7 MS. RESK: Terry Resk, Haile, Shaw &
8 Pfaffenberger, counsel for the deponent.

9 THE REPORTER: Ma'am, would you raise your
10 right hand, please.

11 Do you solemnly swear or affirm the testimony
12 you are about to give will be the truth, and
13 nothing but the truth?

14 THE WITNESS: I do.

15 THEREUPON:

16 DIANNE BIENES
17 having been first duly sworn or affirmed, was examined
18 and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. GRIFFIN:

21 Q. Good morning, Miss Bienes.

22 A. Good morning.

23 Q. Before we begin I just want to go over a few
24 ground rules in the deposition today so we have a clear
25 record.

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1 Throughout the deposition I'm going to ask you
2 a series of questions and I'd ask that you answer each
3 of my questions truthfully and to the fullest extent
4 that you have knowledge. Do you understand?

5 A. Yes.

6 Q. Okay. The court reporter will be taking down
7 the questions and answers, so your answers have to be
8 audible. I'm sure your counsel's probably --

9 A. Right.

10 Q. -- advised this. So if you can -- the court
11 reporter can't capture our gestures like I'm gesturing
12 right now such as nodding your head. So do you
13 understand?

14 A. Yes.

15 Q. Also to help the court reporter accurately
16 transcribe our conversation we should both try not to
17 talk over each other. So please wait for me to finish
18 my questions and I'll try to wait for you to finish
19 your answer.

20 A. Thank you.

21 Q. And that way we don't interrupt each other.

22 If you don't understand a question please let
23 me know.

24 Also, are you represented by counsel here
25 today?

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1 A. Yes.

2 Q. And who is that?

3 A. Terry Resk.

4 Q. Okay. During the course of my questioning
5 your counsel may object to some of the questions as a
6 general rule. However, you will -- unless she
7 instructs you not to answer I -- you're going to have
8 to answer my questions. Okay?

9 A. I understand.

10 Q. Just some definitional things before we start.
11 If I refer to "BLMIS" that means Bernard L. Madoff
12 Investment Securities. Do you understand what I --

13 A. Yes --

14 Q. -- mean by that?

15 A. -- I do.

16 Q. And when I refer to "Madoff" I will be
17 referring to Bernard L. Madoff. Do you understand
18 that?

19 A. Personally?

20 Q. Yes. If you don't understand the question
21 whether I'm referring to him or the business BLMIS,
22 please let me know and I will rephrase the question to
23 make sure that we're both clear on the question that's
24 being asked. Okay?

25 A. Thank you.

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1 Q. I guess if I refer to "Mr. Avellino" I -- I --
2 that means Frank Avellino; do you understand?

3 A. I understand.

4 Q. Okay. And Mr. Bienes I'll be referring to --

5 A. Michael.

6 Q. -- Michael your husband, and you understand.
7 Okay.

8 So I'd like to talk just a little bit about
9 your background right now. So could you just tell me
10 briefly what educational level that you achieved?

11 A. I took -- I finished high school, I took some
12 college courses, but I never pursued it.

13 Q. So you finished high school?

14 A. Right.

15 Q. What were those college courses in?

16 A. Mostly accounting.

17 Q. Right. Bookkeeping type of -- of courses?

18 A. No, more accounting.

19 Q. More accounting? What's the difference
20 between bookkeeping and accounting?

21 A. I -- what they called it, I don't really know.
22 I can't --

23 Q. Okay.

24 A. -- give you a definition.

25 Q. I forgot to ask you some background questions.

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1 Physically is there anything -- is there any physical
2 condition that you have right now that would prevent
3 you from being able to answer the questions I pose to
4 you truthfully?

5 A. No.

6 Q. No?

7 Are you on any medications today?

8 A. I am on medication, but I don't assume that
9 they would impair my ability to answer.

10 Q. Okay.

11 A. I mean, I take a little Synthroid for a
12 thyroid problem and some blood pressure medication.

13 Q. But none of which you believe will affect your
14 ability to testify truthfully?

15 A. I don't think so. I'm not a doctor, but I
16 would assume so, I don't know.

17 Q. After you completed high school and took some
18 college courses did you hold any jobs?

19 A. Yes, I did.

20 Q. Could you tell me what they were?

21 A. Always in the bookkeeping field.

22 Q. And -- and who did you work -- what company
23 did you work for?

24 A. God, I worked for Equitable Lumber & Building
25 Supply in Brentwood, New York.

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1 Q. And when was that approximately? I know it
2 was probably a long time ago.

3 A. That was in the '60s.

4 Q. Okay. And did you work anywhere else besides
5 Equitable Lumber?

6 A. Yes, after that I worked for a company called
7 Todd Equipment Leasing in Great Neck. That was when I
8 left Equitable.

9 Q. When approximately did you leave Equitable to
10 begin working at Todd Equipment Leasing?

11 A. Oh, in the '70s.

12 Q. And after that Todd Equipment Leasing did you
13 work anywhere else?

14 A. No.

15 Q. Did there come a time that you became
16 acquainted with a person named Saul Alpern?

17 A. Yes, when I worked for Equitable Lumber.

18 Q. And -- and how did you meet Saul Alpern?

19 A. He was the accountant for Equitable.

20 Q. Do you know what, if any, relationship Saul
21 Alpern had to Bernard Madoff?

22 A. Well, I -- I know he was his father-in-law.

23 Q. Okay.

24 A. But I didn't know it at the time.

25 Q. Did you interact with Saul Alpern while you

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1 were working at Equitable Lumber?

2 A. What do you mean by interact? I -- I took
3 care of the books and he was the accountant. In that
4 respect, yes.

5 Q. So you worked together on a regular basis
6 then?

7 A. Yes.

8 Q. Okay.

9 A. When he came out once a month.

10 Q. What was the name of -- of the entity that
11 Mr. Alpern worked for at the time, if you recall?

12 A. Alpern & Heller.

13 Q. Okay.

14 A. And I knew Mr. Heller as well.

15 Q. Okay. Did you socialize with Mr. Alpern?

16 A. No.

17 Q. Did you ever become aware that Mr. Alpern
18 pooled investor monies to invest with Bernard Madoff?

19 A. No.

20 Q. How would you describe your relationship with
21 Saul Alpern?

22 A. Business. He came to do the books and I was
23 there and he did his worksheets.

24 Q. Do you or anybody in your family have a
25 familial relationship with Saul Alpern or his family?

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1 A. No.

2 Q. No? Okay.

3 There came a time when you met your husband
4 Michael Bienes.

5 A. Yes.

6 Q. Went was that approximately?

7 A. I think in 1969.

8 Q. How did you meet Mr. Bienes?

9 A. The firm used to do a certified audit because
10 the company was factored and they had to supply an
11 audit to the factor, which at the time was Minehart
12 Financial, which I don't even know if they exist.

13 Q. And when you say the firm used to do a
14 certified audit who did --

15 A. Alpern & Heller.

16 Q. Okay. And so Mr. Bienes at the time worked
17 for Alpern & Heller?

18 A. Yes.

19 Q. Okay. And do you in what capacity he worked
20 at Alpern & Heller at that time?

21 A. As an accountant I suppose, I don't know.

22 Q. Okay. What -- had Mr. Bienes always worked at
23 Alpern & Heller? Had he worked somewhere else before
24 that?

25 A. Yes.

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1 Q. And where was that?

2 A. The Internal Revenue Service.

3 Q. And what position did he hold with the
4 Internal Revenue Service?

5 A. I have no idea.

6 Q. Do you know what he -- he did at the Internal
7 Revenue Service?

8 A. No, I don't.

9 Q. So Mr. Alpern was Michael Bienes's boss at the
10 time you met him; is that correct?

11 A. I assume so.

12 Q. Okay. Did you and Michael ever invest monies
13 with Saul Alpern?

14 A. Not for years later.

15 Q. So you did give him money to invest at some
16 point?

17 A. Years later, yes. I don't remember exactly
18 when.

19 Q. Okay. So -- so just to be clear we were
20 talking roughly about the time you met Mr. Bienes which
21 was 1969, and from your answer I'm taking that it was
22 sometime after 1969 that you gave money to Mr. Alpern
23 to invest?

24 A. I would assume it was in the '70s --

25 Q. Okay.

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1 A. -- at some point. I don't know when.

2 Q. And did you have an understanding how
3 Mr. Alpern was going to invest your money when you did?

4 A. I knew he had a fund.

5 Q. Did you know anything about that fund?

6 A. I knew his clients were all invested in it. I
7 don't -- I can't say all, I mean --

8 Q. Right.

9 A. -- you know.

10 Q. Did that fund have any relationship to Bernard
11 Madoff?

12 A. I don't know. I assume so. I don't know.

13 Q. Did you know what Mr. Alpern was investing
14 your funds in?

15 A. Not exactly, no.

16 Q. Did you know whether they were stocks or
17 bonds?

18 A. No, I wouldn't know.

19 Q. Did you receive statements from Mr. Alpern in
20 connection with those investments?

21 A. I don't remember.

22 Q. Was Michael involved in making those
23 investments with Saul Alpern?

24 A. No.

25 Q. It was just you?

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1 A. Well, I gave -- I had the amount of \$5,000
2 that I put in the fund.

3 Q. Okay.

4 A. I didn't -- Michael didn't handle it. I
5 mean -- you know, as far as I know.

6 Q. So you would have been the person to supervise
7 the investment, the returns, anything like that?

8 MS. RESK: Object to form. Supervise?

9 BY MS. GRIFFIN:

10 Q. Were you the person who managed your
11 investment?

12 MS. RESK: Same objection.

13 BY MS. GRIFFIN:

14 Q. Do you understand what I mean by managing your
15 investment?

16 A. I don't -- I don't understand anything about
17 managing investments. I mean, I gave him my money, it
18 was put in the fund. I don't recall whether there were
19 any statements or anything else involved, I really
20 don't.

21 Q. You would -- strike that.

22 Did you and Michael have any other business
23 relationships with Saul Alpern besides what you've
24 described already?

25 A. I had no business relationships with Saul

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1 Alpern.

2 Q. Except for he was the accountant for Equitable
3 Lumber?

4 A. Yeah, but by that time I wasn't with
5 Equitable.

6 Q. When did you stop working for Todd Equipment
7 Leasing?

8 A. I would say around '74. It was after I was
9 married.

10 Q. And after Todd Equipment Leasing did you work
11 for anybody else?

12 A. No.

13 Q. Did Michael ever become a partner of Saul
14 Alpern's?

15 A. Oh...

16 Q. If you can recall.

17 A. I -- I know he became a partner. I don't know
18 if it was with Saul. He may have been a partner with
19 Saul towards the end of Saul's career, I don't know.

20 Q. At some point -- well, let me back up. Was
21 Mr. Avellino a partner of Saul Alpern's?

22 A. Yes.

23 Q. And at some point after Mr. Alpern retired do
24 you know if the firm became Avellino & Bienes?

25 A. Yes.

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1 Q. There came a time when you met Mr. Avellino?

2 A. Yes.

3 Q. And do you remember approximately when that
4 was?

5 A. I think I met him before I met my husband
6 because he was working for Alpern.

7 Q. So did he perform services for Equitable
8 Lumber while you were there?

9 A. I don't recall.

10 Q. Okay. But did you ever work with Mr. Alpern
11 to your recollection?

12 A. Did I ever work with Mr. Alpern?

13 Q. Yes.

14 A. I worked with him when he came in to do the
15 books for Equitable.

16 Q. I'm sorry. Did you ever work for
17 Mr. Avellino? I misspoke.

18 A. No.

19 Q. Okay. What did Frank Avellino do for a living
20 at the time that you met him?

21 A. He was an accountant for Alpern & Heller.

22 Q. Do you know whether Mr. Avellino had a
23 relationship with Bernard Madoff?

24 A. No.

25 Q. Do you know whether Mr. Avellino ever invested

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1 with Bernard Madoff?

2 A. Now you say ever, I mean, you're talking about
3 in that time period?

4 Q. Ever is where I'm starting with. Do you know
5 if Mr. Alpern ever invested with Mr. Madoff?

6 A. Well, years later.

7 Q. Okay. And when you say years later I know
8 we've been talking currently about the time you met
9 your husband around 1969. When you say years later do
10 you think the '70s or the '80s later? Just roundabout
11 if you can recall.

12 A. Well, I -- I don't know when he invested with
13 him, but, I mean...

14 MS. RESK: I don't think she wants you to
15 guess.

16 BY MS. GRIFFIN:

17 Q. That's right. And that's fine. But you did
18 have an understanding that at some point Mr. Avellino
19 invested with Mr. Madoff?

20 A. Yes.

21 Q. Okay. How would you describe your
22 relationship to Mr. Avellino?

23 A. Always friendly.

24 Q. You're still friendly?

25 A. Yes. I mean, we don't have opportunity to see

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1 each other, but, yes.

2 Q. And why is that?

3 A. Because we're not near each other.

4 Q. Do you communicate with Mr. Avellino?

5 A. No.

6 Q. Do you communicate with Miss Avellino?

7 A. Mrs., yes. Occasionally.

8 Q. Okay. Would you describe your relationship as
9 a social one?

10 A. A social, yes.

11 Q. You used to spend -- did you used to spend a
12 lot of time with them in the past?

13 A. No.

14 Q. No?

15 There came a time -- did there come a time
16 that you met Bernard Madoff?

17 A. Yes.

18 Q. And -- and do you remember the circumstances
19 of how that came to be?

20 A. I remember I met him at a Religious Zionists
21 of America dinner at I believe it was the New York
22 Hilton, and it would be in the early '70s.

23 Q. Did you know what Mr. Madoff did for a living
24 at that time?

25 A. He was a broker.

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1 Q. Do you know where Mr. Madoff's offices were at
2 the time when he was a broker?

3 A. No.

4 Q. Do you know if Mr. Madoff ever worked out of
5 his father-in-law Saul Alpern's offices?

6 A. Not personally, no.

7 Q. How would you describe your relationship to
8 Bernard Madoff?

9 A. I had none.

10 Q. How many times had you met Mr. Madoff over the
11 years?

12 A. Certainly less than ten times.

13 Q. How would you describe your husband Michael's
14 relationship to Mr. Madoff?

15 A. I wouldn't know what his relationship was.

16 Q. Do you know whether Mr. Bienes did any
17 accounting work for Madoff?

18 A. No.

19 Q. Did you have any family relationships with
20 Mr. Madoff or his family?

21 A. No.

22 Q. Did you have any social relationships with
23 Mr. Madoff or his family?

24 A. No.

25 Q. Did you know Jerome Horowitz?

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1 A. No.

2 Q. Did you know David Freeling?

3 A. No.

4 Q. Have you heard of either of those gentlemen?

5 A. I've heard of them, yes.

6 Q. What do you -- what do you know about Jerome
7 Horowitz?

8 A. He was an accountant.

9 Q. And do you know whether he was an accountant
10 for Mr. Madoff?

11 A. Personally, no. I might have heard it, but I
12 don't know.

13 Q. Okay. And what do you know of David Freeling?

14 A. Nothing.

15 Q. So you know nothing about his relationship to
16 Mr. Madoff?

17 A. No.

18 Q. Did you know Jeffry Picower?

19 A. Yes.

20 Q. And did you meet him?

21 A. Yes.

22 Q. How did you come to meet Mr. Picower?

23 A. Through my husband.

24 Q. Did you meet him socially or did you meet him
25 in connection with any business?

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1 A. Socially.

2 Q. And how did your husband, Mr. Bienes, know
3 Jeffry Picower?

4 A. He knew him from the time he was a child.

5 Q. Did he have any familial relationships with
6 Mr. Picower?

7 A. He was his brother -- brother-in-law -- former
8 brother-in-law.

9 Q. So Mr. Bienes was married to Jeffry Picower's
10 sister?

11 A. Correct.

12 Q. And what was her name?

13 A. Emily.

14 Q. Did Mr. Bienes and Emily have any children?

15 A. Yes.

16 Q. How many?

17 A. Three.

18 Q. And what were their names?

19 A. Their names?

20 Q. Yes. If you know.

21 A. Terry, Rhonda, and Gail. I had to think of
22 it.

23 THE REPORTER: I'm sorry, repeat it.

24 THE WITNESS: Terry, Rhonda, and Gail.

25 A. I'm sorry.

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1 BY MS. GRIFFIN:

2 Q. So I take it from your answer that you don't
3 see them very frequently?

4 A. No.

5 Q. Okay. So if you know, do you know when
6 Mr. Bienes divorced Emily Picower?

7 A. I'd say sometime -- I want to say 1970, maybe
8 after. I'm not sure.

9 MS. RESK: Don't guess. Tell her what you
10 know.

11 THE WITNESS: I know.

12 MS. RESK: Tell her everything you know,
13 nothing that you don't know.

14 BY MS. GRIFFIN:

15 Q. No?

16 A. No, I don't know.

17 Q. Did you see Mr. Picower frequently?

18 A. No.

19 Q. Do you know whether Mr. Bienes saw or
20 communicated with Mr. Picower frequently?

21 A. With Jeffry, no, I wouldn't know.

22 Q. When you met Mr. Picower where did you meet
23 him? If you recall.

24 A. I don't recall.

25 Q. Okay. How many times would you say you've

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1 ever met or seen Mr. Picower?

2 A. I wouldn't have any idea.

3 Q. Would you say it was more than a dozen times?

4 A. I doubt it, but I...

5 Q. Did there come a time that you became a
6 partner in an entity called Avellino & Bienes?

7 A. Yes, I was a partner.

8 Q. Could you describe what your partnership
9 interest was in Avellino & Bienes?

10 A. When you say interest, by that --

11 Q. How much did you own? Whether you were a
12 limited partner? I just was asking you generally to
13 describe what your understanding was of your interest
14 in Avellino & Bienes.

15 A. I just was a 50 percent partner of my
16 husband's share.

17 Q. Okay.

18 A. I had no function in the partnership.

19 Q. When you say you had no function in the
20 partnership, could you please explain what you mean by
21 that?

22 A. Well, I was not involved in any of the
23 operational end of the partnership.

24 Q. So you performed no services --

25 A. None.

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1 Q. -- with Avellino & Bienes?

2 A. None.

3 Q. Did your husband perform any of those
4 operational functions for Avellino & Bienes that you
5 described?

6 A. I assume so.

7 Q. Did you receive distributions from Avellino &
8 Bienes on account of your partnership interest in that
9 entity?

10 A. Did I receive what?

11 Q. Did you receive any income from Avellino &
12 Bienes?

13 A. I assume that my husband did.

14 Q. But you, to your knowledge, you don't know
15 whether you did?

16 A. Well, we didn't -- it was not individually
17 paid out if that's what you're asking.

18 Q. So even though you were a 50 percent partner
19 in your husband's share of Avellino & Bienes you left
20 it to Michael to -- to withdraw or receive the income
21 in connection with Avellino & Bienes, is that what
22 you're saying?

23 A. Well, I don't know what the mechanics were as
24 far as the bookkeeping end was. I mean, I don't know.
25 We just had a draw and that was it. I mean...

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1 Q. Can you explain what you mean by a draw?

2 A. Well, we got -- received a check as income.

3 Q. Thank you.

4 And do you know what services Avellino &
5 Bienes was providing pursuant to which you earned those
6 draw -- draws?

7 MS. RESK: Object to form.

8 BY MS. GRIFFIN:

9 Q. Was Avellino & Bienes providing any services
10 while you were a partner to anybody?

11 A. I don't know.

12 Q. Do you know how Avellino & Bienes earned
13 income from which you earned your draws?

14 MS. RESK: Object to form.

15 THE WITNESS: Excuse me?

16 MS. RESK: I'm sorry, I objected to the form.

17 THE WITNESS: Oh.

18 BY MS. GRIFFIN:

19 Q. You have no idea --

20 MS. RESK: Because of "you."

21 MS. GRIFFIN: Okay. I'm asking Mrs. Bienes
22 what her understanding is of how Avellino & Bienes
23 earned income?

24 A. I -- I'd assume from the investments they
25 made.

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1 BY MS. GRIFFIN:

2 Q. Okay. And can you explain to me what
3 investments they made that you just described?

4 A. I didn't participate in their -- the business
5 end of it.

6 Q. Do you have any understanding whether the
7 investments you just described had anything to do with
8 Madoff?

9 A. I assume that they -- they were.

10 Q. To your knowledge, what business did
11 Avellino & Bienes engage in while you were a partner?

12 A. In the part that I was a partner in, is that
13 what you're asking?

14 Q. Yes.

15 A. Yes, they were engaged in investments.

16 Q. And you just testified that you assume that
17 the investments had something to do with Mr. Madoff.

18 A. Yes.

19 Q. What do you form that assumption based on?

20 A. Because I -- from what I understand it was the
21 same thing that Saul Alpern was doing.

22 Q. And what did you understand Saul Alpern was
23 doing?

24 A. He had an investment group that he invested
25 with Madoff.

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1 Q. And how did Avellino & Bienes earn money by
2 investing with Madoff?

3 A. I don't know.

4 Q. Do you recall when you became a partner in
5 Avellino & Bienes?

6 A. No.

7 Q. You're not a licensed certified public
8 accountant, are you?

9 A. No, I'm not.

10 Q. So when you were a partner in Avellino &
11 Bienes was Avellino & Bienes performing accounting
12 services?

13 A. I couldn't possibly be a partner in their
14 accounting business.

15 Q. So the answer to my question would be no?

16 A. Right.

17 Q. Okay. Did Avellino & Bienes have clients?

18 A. The accounting firm?

19 Q. The firm of which you were a partner which
20 was -- as you just described --

21 A. Yes.

22 Q. -- was no longer providing accounting
23 services?

24 A. Right.

25 Q. Okay. After you became a partner did

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1 Avellino & Bienes the partnership have clients?

2 A. Yes.

3 Q. Do you know approximately how many clients?

4 A. No.

5 Q. Hundreds? Dozens? Thousands?

6 A. I wouldn't have a clue. I had no
7 participation.

8 Q. Okay. Did your husband participate though in
9 Avellino & Bienes?

10 A. Yes.

11 Q. Do you know what his role was in connection
12 with Avellino & Bienes the partnership?

13 A. No.

14 Q. Was Mr. Avellino involved in Avellino & Bienes
15 the partnership?

16 A. Yes.

17 Q. Could you describe your understanding of what
18 his role was in connection with that partnership?

19 A. I think he kept the books, but I don't know.

20 Q. During this time were you personally investing
21 with Mr. Madoff at BLMIS?

22 A. Yes.

23 Q. Were you receiving statements from BLMIS for
24 those investments?

25 A. I don't remember.

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1 Q. Do you remember ever receiving any customer
2 statements from BLMIS?

3 A. No.

4 Q. Do you know whether Mr. Avellino was involved
5 with your own personal investments at BLMIS?

6 A. I don't know.

7 Q. Would your husband have known?

8 A. I assume so, I don't know. I can't speak for
9 what...

10 Q. So you don't -- sitting right here right now
11 you had an investment with Mr. Madoff, you don't know
12 whether you received any customer statements, and you
13 don't know whether your husband or Mr. Avellino was
14 involved with those investments?

15 A. I'm not sure what you're asking. I didn't
16 receive any statements.

17 Q. Who did?

18 A. I guess Avellino & Bienes.

19 MS. RESK: Don't guess. Tell her what you
20 know.

21 A. Oh, I'm sorry. I mean, I don't know.

22 BY MS. GRIFFIN:

23 Q. Well, you --

24 A. I didn't receive them. I don't know who --

25 Q. Who did.

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1 A. -- received them.

2 Q. Did you and your husband have a relationship
3 where you kind of delegated duties when it came to
4 money?

5 A. Yes.

6 Q. And what would that relationship be?

7 A. He handles investments, he handled taxes. I
8 handled our ongoing life.

9 Q. And what do you mean by your ongoing life?

10 A. Paying the bills, making arrangements, taking
11 care of charities.

12 Q. Typical delegation in relationships.

13 So it wouldn't surprise you if Mr. Bienes was
14 the one receiving the statements or reviewing them on
15 behalf of your personal investments with BLMIS?

16 A. No.

17 Q. Where were -- did Avellino & Bienes have
18 offices when you were a partner?

19 A. Yes.

20 Q. Where were they located?

21 A. This is really --

22 MS. RESK: Don't guess.

23 BY MS. GRIFFIN:

24 Q. Even a --

25 A. Well, they -- they moved, that's why I'm --

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1 Q. So if you can recall anyplace they had an
2 office.

3 A. Once they were on 5th Avenue and then --

4 Q. Do you remember a decade generally when that
5 was? If not, I understand.

6 A. I know they started out at the Young & Rubicam
7 building. Then they were on 5th Avenue. I would say
8 that would be -- well, I guess this is in the '7 --

9 MS. RESK: No, you're not guessing.

10 THE WITNESS: Oh, right. I'm sorry.

11 A. I don't know. I'm just --

12 BY MS. GRIFFIN:

13 Q. Did you often go into Avellino & Bienes's
14 offices?

15 A. No.

16 Q. Did you ever have interactions with any of the
17 employees at Avellino & Bienes --

18 A. No.

19 Q. -- while you were a partner?

20 A. No, not really, no.

21 Q. Would you have left those interactions to
22 Mr. Bienes?

23 MS. RESK: Object to form.

24 A. I don't know, I mean --

25

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1 BY MS. GRIFFIN:

2 Q. So when you were a partner at Avellino &
3 Bienes you didn't have anything to do with the staff at
4 Avellino & Bienes?

5 A. Except take somebody to lunch once in awhile I
6 had no -- nothing else to do with anyone there.

7 Q. Who -- who would you take to lunch?

8 A. Somebody who worked for him.

9 Q. I'm sorry, somebody who worked for who?

10 A. For Avellino & Bienes.

11 Q. Okay. So do you mean staff, secretaries?

12 A. Yeah.

13 Q. Okay. Did you have an office at Avellino &
14 Bienes?

15 A. No.

16 Q. You didn't have your own private assistant?

17 A. I didn't do anything.

18 Q. Okay. Did you have an understanding of what
19 investment strategies Mr. Madoff engaged in in
20 connection with your private investments?

21 MS. RESK: I'm sorry, can you repeat that?

22 MS. GRIFFIN: Sure. I'll rephrase it.

23 BY MS. GRIFFIN:

24 Q. Did you -- you had private -- you had your own
25 investments at BLMIS?

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1 A. Yes.

2 Q. Did you have an understanding what those
3 investments were?

4 A. No.

5 Q. Do you know whether your money was invested in
6 stocks, bonds, or treasuries?

7 A. No.

8 Q. So did you ever have an understanding of what
9 Mr. Madoff's investment strategies were at any time?

10 A. No.

11 Q. Did you ever have communications with anyone
12 at BLMIS?

13 A. At the end when we had a call for money I did
14 the last couple of years.

15 Q. And could you please explain a little bit by
16 what you meant when you had a call for money in the
17 last couple of years?

18 A. Well, when we had -- right before he closed
19 abruptly the last couple of years when we had our own
20 partnership, my husband and I, then I would have to
21 call on my own -- or I didn't call, I sent a fax and
22 asked for a draw against my account.

23 Q. I see. So you would fax in redemption
24 requests?

25 A. Yes.

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1 Q. And -- and do you recall what entity you would
2 do that in connection with? You just described an
3 entity you and your husband had together.

4 A. St. James.

5 Q. And that was a partnership?

6 A. Yes.

7 Q. And were you a general partner or do you know?

8 A. No, it was just my husband and I.

9 Q. Okay. And that's one time that you actually
10 got involved with your accounts?

11 MS. RESK: Object to form.

12 MS. GRIFFIN: Well, she testified previously
13 that she didn't have anything to do with that and
14 she delegated all those activities to Mr. Bienes.

15 BY MS. GRIFFIN:

16 Q. And I'm just saying that is this the only time
17 that you got involved in your investments with Madoff?

18 A. If you -- if your question is did I call for
19 money, I called for -- well, I sent a fax for money.

20 Q. Um-hum.

21 A. I was not involved with my investments with
22 Mr. Madoff.

23 Q. So based on your testimony previously are you
24 saying that you did not review the statements -- or,
25 first of all, did you receive statements in connection

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1 with that entity that you and your part -- your husband
2 had?

3 A. At the end.

4 Q. At the end. When you say at the end do you
5 mean 2006 to 2008 roughly?

6 A. Yes, exactly. 2000 -- yeah, right.

7 Q. Did you review those statements?

8 A. No. I didn't get the statements, my husband
9 did.

10 Q. And do you know whether he reviewed those
11 statements?

12 A. No, he gave them to the accountant.

13 Q. And who was your account -- that -- who was
14 the accountant that you just referred to?

15 A. Becky McDonough.

16 Q. And what did Becky McDonough do with the
17 statements?

18 A. Filled out our tax return.

19 Q. Based on what you just said previously I take
20 it you never had any personal communications then with
21 any employees of BLMIS?

22 A. Only -- only when I sent faxes.

23 Q. Okay. But did you ever speak to anybody on
24 the phone?

25 A. No.

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1 Q. Do you know whether Michael Bienes had any
2 understanding about what Mr. Madoff's investment
3 strategy was in this later time period that you just
4 discussed?

5 A. No, I really wouldn't know.

6 Q. When you would fax your -- I think you called
7 it your calls for money into BLMIS do you know to whose
8 attention you would have sent them to?

9 A. Who I would have sent the faxes to?

10 Q. Yes.

11 A. Frank DePasquale or whatever his name was.

12 Q. Yeah.

13 A. I'm not sure.

14 Q. Had you ever met Mr. DePasquale?

15 A. No.

16 Q. Did there come a time that you became aware
17 that the SEC was investigating the partnership
18 Avellino & Bienes?

19 A. November 13th, 1992.

20 Q. That's a very specific date. How -- how do
21 you know it was that date?

22 A. Because it was Friday the 13th. That is
23 something like somebody says when were you born?

24 Q. So can I ask you the circumstances on which
25 you came to learn about the investigation?

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1 A. Okay. My husband and -- and see this is where
2 my mind is foggy. Certain things I remember, but I
3 know we were having some sort of charity event at our
4 home. And we were getting ready to go next door to the
5 pavilion where we held these events and a phone call
6 came in. I think it was from the attorney, I'm not
7 sure. And I didn't even know there was an SEC
8 investigation going on. And that was when we heard.

9 Q. And do you recall what you heard about that
10 investigation?

11 A. They decided that they were going to close
12 down the ongoing investment account, excuse me.

13 MS. GRIFFIN: Do you need some water?

14 THE VIDEOGRAPHER: Going off the record,
15 folks?

16 MS. GRIFFIN: Please.

17 THE VIDEOGRAPHER: Time is 9:53.

18 (Recess taken at 9:53 a.m.)

19 (Deposition resumed at 10:04 a.m.)

20 THE VIDEOGRAPHER: Back on the video record.

21 The time is 10:04.

22 BY MS. GRIFFIN:

23 Q. Miss Bienes, I'm going to ask you some
24 questions about an answer you gave us prior to our
25 taking a break, so I'm going to ask the court reporter

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1 to read back the last two questions and answers.

2 (Read back.)

3 BY MS. GRIFFIN:

4 Q. So my next question, Miss Bienes, is when you
5 say "they" decided that they were going to close down
6 the ongoing investment account who is the "they"?

7 A. The SEC.

8 Q. And to be clear, what did you mean by the
9 ongoing investment account?

10 A. Close down Avellino & Bienes.

11 Q. And when you say -- did that investment
12 account relate to Madoff?

13 A. Yes.

14 Q. And how did it relate to Madoff?

15 A. The monies were invested with Madoff.

16 Q. Did you know whether your husband was aware of
17 the SEC investigation prior to when you learned about
18 it?

19 A. Yes.

20 Q. And do you know how long he had known about --

21 A. No.

22 Q. Were you ever contacted by the SEC?

23 A. No.

24 Q. Were you represented by attorneys, you
25 personally, in connection with the 1992 SEC

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1 investigation?

2 A. I was not involved with this investigation.

3 Q. Do you know whether --

4 A. I mean, probably because I was a partner, but
5 I -- I had no involvement.

6 Q. And when you say you had no involvement you
7 didn't get in -- sorry.

8 What did you mean by you had no involvement?

9 A. That's exactly what I mean.

10 Q. You never spoke to the SEC?

11 A. No.

12 Q. Did you ever have written communications with
13 the SEC?

14 A. No.

15 Q. Did you ever talk to any lawyers for -- for
16 Avellino & Bienes?

17 A. No.

18 Q. Do you know whether Avellino & Bienes was
19 represented by counsel?

20 A. Yes.

21 Q. Do you know who that counsel was?

22 A. Ira Sorkin.

23 Q. I know the answer to this question based on
24 your testimony, but did the SEC ever seek to take a
25 deposition of you?

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1 A. No.

2 Q. I know you said you had no involvement, but
3 just to be clear, did you ever give any documents to
4 the SEC in connection with the 1992 investigation?

5 A. I never had any documents.

6 Q. Did you give any documents to Ira Sorkin in
7 connection with the 1992 investigation?

8 A. I never had any documents.

9 Q. Did Michael have a role in dealing with the
10 SEC investigation?

11 A. I wouldn't know.

12 Q. Did Frank Avellino have a role in connection
13 with the investigation?

14 A. I don't know.

15 Q. Do you know whether Michael or Frank were
16 communicating with attorneys about the SEC
17 investigation?

18 A. I don't know personally, no.

19 Q. You never asked a single question to either
20 one of them about the 1992 investigation?

21 A. I was in Florida, they were in New York. I
22 don't know what they were doing.

23 Q. You didn't have any phone calls with your
24 husband about the SEC investigation?

25 MS. RESK: They would be privileged.

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1 MS. GRIFFIN: I'm not asking her what the
2 content was.

3 MS. RESK: You can answer.

4 A. I'm sorry.

5 BY MS. GRIFFIN:

6 Q. That's okay.

7 A. What did he --

8 Q. Did you have any conversations -- phone
9 conversations with your husband about the SEC
10 investigation?

11 A. Mostly they were complaining about
12 Pricewaterhouse.

13 Q. And who was Pricewaterhouse?

14 A. I assume the SEC hired them to check the books
15 of Avellino & Bienes.

16 Q. And when you say mostly they were complaining
17 about Pricewaterhouse who was the "they"?

18 A. I remember my husband and then a long time
19 later I guess him and Frank complaining about that.

20 Q. And what were they complaining about
21 Pricewaterhouse?

22 A. That they kept burning out their copy machine.
23 I mean, really.

24 Q. That's what you remember about the 1992 --

25 A. Yes.

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1 Q. -- SEC investigation?

2 A. Well, I mean about them, what they were
3 complaining about.

4 Q. Do you remember them complaining about
5 anything else about the 1992 SEC investigation?

6 MS. RESK: You're really not supposed to
7 mention anything that -- conversation between you
8 and your husband. If you have anything between you
9 and Frank, or anything that --

10 THE WITNESS: Oh.

11 MS. RESK: -- between you and your husband and
12 Frank was present.

13 BY MS. GRIFFIN:

14 Q. You can answer.

15 A. Do I remember anything else?

16 Q. That they were complaining about.

17 A. No.

18 Q. Do you know what the outcome of that 1992 SEC
19 investigation was?

20 A. Everybody got their money back.

21 Q. Did -- was Avellino & Bienes's account closed
22 as a result of that investigation?

23 A. The investment account, yes.

24 MS. GRIFFIN: I'm giving a document to the
25 court reporter and asking her to mark it. It's a

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1 copy of a Final Judgment of Permanent Injunction
2 and Other Equitable Relief against Avellino &
3 Bienes, Frank J. Avellino, and Michael S. Bienes.

4 MS. RESK: Is that -- was that brought by a
5 particular entity?

6 MS. GRIFFIN: Sorry. In the SEC
7 investigation/action.

8 (Whereupon, Plaintiff's Exhibit 1 was marked
9 for identification.)

10 BY MS. GRIFFIN:

11 Q. Miss Bienes, I'm giving you a copy of what's
12 been marked as Plaintiff's 1. Can you take a moment to
13 look at it.

14 A. You want me to read all this?

15 Q. I just want to say do you recognize it? And
16 to expedite matters I'm going to ask you to flip to the
17 second-to-the-last page where I believe there is
18 something that purports to be your signature.

19 A. Yes.

20 Q. Is that your signature?

21 A. Yes.

22 Q. Do you recall signing any -- any type of
23 papers at the conclusion of the SEC investigation in
24 1992 related to Avellino & Bienes?

25 A. Yes, I remember having to sign it.

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1 Q. Do you -- is this document -- is this the
2 document you recall signing?

3 A. I don't know. I mean --

4 Q. Do you have any reason to doubt that it isn't?
5 Do you want to take a moment to look it over?

6 A. No, I don't doubt that it is. I wouldn't
7 remember if it wasn't.

8 Q. All right. May I have that back?

9 What were the circumstances under which you
10 signed any -- this document or any document at the
11 conclusion of the SEC investigation?

12 A. I was told I had to.

13 Q. And who told you?

14 MS. RESK: You're not supposed to say anything
15 if your lawyer told you.

16 A. I don't know who told me.

17 BY MS. GRIFFIN:

18 Q. Did you have an understanding as to what you
19 were signing with respect to the conclusion of the 1992
20 investigation?

21 A. I thought I did.

22 Q. And did you understand that there were --
23 whether there were any restrictions or instructions to
24 you?

25 A. From what my husband told me, yes.

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1 Q. Okay. And what did you -- what was that
2 understanding?

3 A. What did he tell me or what was my
4 understanding?

5 Q. What was your understanding?

6 A. That they weren't doing business anymore.

7 Q. And when you say "they"?

8 A. Avellino & Bienes.

9 Q. After the conclusion of the 1992 SEC
10 investigation did there come a time that you,
11 Mr. Bienes, and the Avellinos met with Mr. Madoff?

12 A. Yes.

13 Q. And do you remember the -- when approximately
14 that meeting was?

15 A. It was in '93, but I'm not sure when.

16 Q. And can you --

17 A. Sorry.

18 Q. Please.

19 And what can you tell me, what do you remember
20 about that meeting?

21 A. Well, the --

22 THE WITNESS: I'm sorry, I have allergies.
23 It's not the talking, it's the allergies.

24 MS. GRIFFIN: For me it's the Claritin that
25 dries me out.

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1 A. What do I remember about that meeting? I
2 remember we went up to Madoff's office because the SEC
3 had released our money and we wanted to arrange to
4 reinvest it with Madoff.

5 BY MS. GRIFFIN:

6 Q. And do you remember approximately when that
7 was?

8 A. Wow, I don't -- I mean, I -- no, I don't.

9 Q. But it was after the SEC investigation
10 concluded and after the SEC released your funds?

11 A. Yes. Yes.

12 Q. And what was discussed about reinvesting your
13 funds with Mr. Madoff?

14 A. Just that we would open an account with our
15 returned funds, the Avellinos and us.

16 Q. And would those -- do you recall anything that
17 Mr. Madoff said at the meeting?

18 A. No.

19 Q. Do you remember anything that your husband
20 said at the meeting?

21 A. Not really.

22 Q. Was it agreed upon that you could reinvest
23 with Mr. Madoff?

24 A. Yes.

25 Q. Do you recall any other gists of the

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1 conversation about that meeting?

2 A. No.

3 Q. Do you recall how much money you guys had to
4 invest at that time to reinvest with Mr. Madoff?

5 A. My husband and I?

6 Q. Um-hum, yes.

7 A. I think it was something like 22 million.

8 Q. Do you recall your husband becoming upset with
9 Mr. Madoff at that meeting?

10 A. Yes, I think he did.

11 Q. And, you know, what, if anything, do you
12 recall about that?

13 A. Oh, I don't know. I really don't remember.

14 Q. You just remember him being upset --

15 A. Yeah, he was.

16 Q. -- with Mr. Madoff?

17 A. Yes, he was.

18 Q. Do you recall how Mr. Madoff responded to your
19 husband being upset?

20 A. No.

21 Q. Eventually, however, you did reinvest with
22 Mr. Madoff?

23 A. Yes.

24 Q. Were those accounts held personally in your
25 and Mr. Bienes's names?

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1 A. No, we had a group with the Avellinos.

2 Q. What do you mean by a group?

3 A. Well, it was some sort of entity with the
4 Avellinos, some trusts or family members. It was no --
5 no outside money.

6 Q. Do you know why you didn't just invest in your
7 own name instead of through entities?

8 A. No.

9 Q. Do you know who made that decision?

10 A. No.

11 Q. Did you have any involvement with the entities
12 that you invested with Mr. Madoff through?

13 A. After '92?

14 Q. Yes.

15 A. No.

16 Q. Do you know who did have involvement with
17 those entities?

18 A. When you say involvement what do you -- in
19 what respect?

20 Q. Who -- who sent the money for investment, who
21 received statements, who reviewed them, who monitored
22 your investments?

23 A. As far as I understand Mr. Avellino.

24 Q. Did your husband have any role in connection
25 with those entities?

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1 A. Not that I'm aware of.

2 MS. GRIFFIN: Why don't we start with these.

3 BY MS. GRIFFIN:

4 Q. Did you receive any customer statements for
5 those entities?

6 A. No.

7 Q. Do you know who did?

8 A. I assume Mr. Avellino.

9 MS. RESK: Don't assume.

10 THE WITNESS: Oh, I'm sorry.

11 MS. RESK: Tell her what you know.

12 A. Well, I mean, no.

13 BY MS. GRIFFIN:

14 Q. You did not?

15 A. No, I did not.

16 Q. Did Mr. Bienes receive any customer statements
17 for those entities?

18 A. Not that I know of.

19 MS. GRIFFIN: Okay. Off the record. We're
20 just going to --

21 THE VIDEOGRAPHER: Off the record, folks. The
22 time is 10:21.

23 (Recess taken at 10:21 a.m.)

24 (Deposition resumed at 10:41 a.m.)

25 THE VIDEOGRAPHER: We're back on the video

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1 record. The time is 10:41.

2 MS. GRIFFIN: I'm giving to the court reporter
3 a document -- I'm sorry, Terry -- that we'd like to
4 have marked, and I apologize for the poor quality,
5 but this is what we have.

6 Yeah, I know.

7 (Whereupon, Plaintiff's Exhibit 2 was marked
8 for identification.)

9 BY MS. GRIFFIN:

10 Q. Mrs. Bienes, I'm -- we're handing over to you
11 a document that's been marked as Trustee's Exhibit 2.
12 It's -- it's a customer statement on BLMIS letterhead,
13 but if you look on the second page it's a little bit
14 clearer. It has a date --

15 A. I have a vision problem you know.

16 Q. Ah. I know. Apologies. That's a little bit
17 clearer.

18 A. Yeah, that's clearer, okay.

19 Q. And really does this -- do you recognize these
20 type of documents at all?

21 Would this help? We use it. Would this help
22 you?

23 A. Well, I mean, this -- this is clearer. I
24 don't -- if you don't ask me any details I won't. I
25 can see it has my name on it.

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1 Q. Okay.

2 A. Okay.

3 Q. Are you familiar with this type of document?

4 A. I see what it is, but, I mean, when you say
5 familiar, no, I'm not familiar with it.

6 Q. You don't recognize any of this?

7 Can you turn -- and I apologize, let's see,
8 it's roughly about ten pages in. There's a Bates
9 range, it's this document, the last three numbers are
10 431, and I can help you.

11 A. Where is that?

12 Q. I can help you find that if it's okay.

13 MS. RESK: The numbers are on the side.

14 BY MS. GRIFFIN:

15 Q. Yeah, they're roughly -- here you go. There
16 you go.

17 MR. GALLAGHER: Bottom right.

18 MS. GRIFFIN: Terry, this is what I'm showing
19 her.

20 A. This?

21 MS. RESK: Can you show me too?

22 MS. GRIFFIN: Sure.

23 MS. RESK: Here, I'm --

24 MS. GRIFFIN: You got it?

25 MS. RESK: I don't know.

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1 MS. GRIFFIN: 431.

2 MS. RESK: I'm sorry, I'm going to hover. Oh,
3 I shouldn't do that.

4 BY MS. GRIFFIN:

5 Q. Okay. Miss Bienes, are you looking at the
6 Bates stamp MADTBB03242431?

7 A. Where are you talking about?

8 MS. RESK: Oh, the number's right there.

9 THE WITNESS: Oh.

10 BY MS. GRIFFIN:

11 Q. I just want to make sure we're both looking at
12 the same document.

13 A. 42431.

14 Q. Correct.

15 A. Yes, I can see that.

16 Q. That's better than my husband.

17 A. It's certain things, you know, and it has to
18 be absolutely black and white.

19 Q. Right. So on this page there's a special
20 notice at the top and then there's something that
21 appears to be your signature down at the bottom. Is
22 that your signature?

23 A. It appears to be, yes.

24 Q. And it appears to be dated 12/12/86.

25 Do you recall signing these types of documents

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1 at all?

2 A. No.

3 Q. The -- the special notice at top says, "In
4 connection with the regular examination of our books we
5 enclose a statement of your account as shown by our
6 books on October 31. Any transactions which are
7 cleared subsequent to the closing date of this
8 statement are not included. Will you kindly examine
9 this statement immediately and sign noting exceptions,
10 if any, on the reverse thereof. It is important that
11 this confirmation or any exceptions thereto be sent
12 directly -- I'm sorry, direct to our accountants Jerome
13 Horowitz, Certified Public Accountant," and then I'm
14 going to skip the address, "promptly in order that they
15 may properly verify the accuracy of your account."

16 And then it's signed, "Very truly yours,
17 Bernard L. Madoff, 110 Wall Street."

18 Do you remember examining this statement and
19 signing it or examining statements of this type and
20 signing them?

21 A. No, not really. No.

22 Q. Do you remember sending anything to Jerome
23 Horowitz?

24 A. No.

25 Q. Do you recall Michael sending any documents to

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1 Jerome Horowitz such as these? No?

2 A. I wouldn't know.

3 Q. Okay. But you have no recollection as you sit
4 here --

5 A. No.

6 Q. -- of this statement or signing any of these
7 statements?

8 A. No.

9 MS. GRIFFIN: I know this is going to get
10 repetitive, my apologies.

11 THE WITNESS: Do you want this back?

12 MS. GRIFFIN: Yes, please. Yes, we have to
13 give it to the court reporter so we all have a
14 record.

15 Do you have the first exhibit?

16 THE REPORTER: It's here.

17 MS. GRIFFIN: Okay, thanks, so I don't mess
18 you up.

19 I'm going to ask the court reporter to mark as
20 Trustee Plaintiff's Exhibit 3 a Customer Statement
21 purportedly in the name of Dianne K. Bienes with a
22 date of 10/31/87.

23 (Whereupon, Plaintiff's Exhibit 3 was marked
24 for identification.)

25

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1 BY MS. GRIFFIN:

2 Q. Miss Bienes, I'm giving you a copy of that
3 document that we've just marked as Trustee's Exhibit 3.
4 Can you take a moment to just look it over? And in
5 particular we're looking at the fourth page.

6 So, again, I'm drawing your attention to the
7 fourth page, the Bates range ending in the last three
8 digits 686.

9 A. Yes.

10 Q. Okay. Is that your signature?

11 A. No.

12 Q. Do you have any idea whose handwriting that
13 is?

14 A. I don't know.

15 Q. Could it be your husband's?

16 A. I don't know.

17 Q. Could it be Mr. Avellino's?

18 A. I don't know. I don't know whose it is.

19 Q. Do you recall ever authorizing your husband to
20 sign your name on -- on your behalf in connection with
21 your BLMIS accounts?

22 A. No.

23 Q. But without explicitly giving him that
24 authority would you -- let's scratch that. I withdraw
25 the question.

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1 But sitting here you have no idea whose
2 signature that is?

3 A. No.

4 Q. Does Mr. Avellino -- strike that.

5 Did Mr. Avellino have the authority to act on
6 your behalf in connection with your BLMIS investments?

7 A. No.

8 Q. Who did, if anyone?

9 A. My husband.

10 Q. Okay. Could you look at the first page of the
11 document. Is that -- does that address look familiar
12 to you?

13 A. Yes.

14 Q. Were you living at that address at that time?

15 A. Yes.

16 Q. Okay. May I have that back, please?

17 A. Sure.

18 Q. Okay. Thank you.

19 MS. GRIFFIN: I told you it's going to get
20 repetitive, right?

21 Can we mark this as Trustee Exhibit 4. It's a
22 document -- I'm sorry, ready?

23 It's a document that appears to be a customer
24 statement on BLMIS letterhead with -- addressed to
25 Dianne K. Bienes dated October 31, 1989.

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1 (Whereupon, Plaintiff's Exhibit 4 was marked
2 for identification.)

3 BY MS. GRIFFIN:

4 Q. Miss Bienes --

5 MS. RESK: You're looking at a letter?

6 MS. GRIFFIN: I said a cust- --

7 MS. RESK: Oh, okay.

8 MS. GRIFFIN: I'm sorry, a document that looks
9 like a customer statement on BLMIS letter --

10 MS. RESK: Oh, okay.

11 MS. GRIFFIN: Sorry.

12 BY MS. GRIFFIN:

13 Q. So, Miss Bienes, I'm going to give that to
14 you.

15 A. Sure.

16 Q. Okay. And just take a look, particularly the
17 first four pages.

18 If you could look, Miss Bienes, at the fourth
19 page of Trustee's Exhibit 4 it's the Bates range ending
20 in the last three numbers 220.

21 A. Right.

22 Q. Is that your signature, Miss Bienes?

23 A. Yes.

24 Q. Okay. I call your attention to the special
25 notice up top. It's the same notice that I read to you

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1 with a -- that looked like a similar customer
2 statement --

3 A. Right.

4 Q. -- with your signature.

5 Does this ring any bells with you?

6 A. No.

7 Q. That this was a practice of reviewing the
8 statements?

9 A. Well, I mean, it seems to be an annual
10 confirmation, but I don't remember it.

11 Q. Okay. But sitting here today you don't
12 remember if you reviewed your statements or signed
13 them?

14 MS. RESK: Object to form.

15 BY MS. GRIFFIN:

16 Q. Sitting here today do you remember reviewing
17 customer --

18 A. No.

19 Q. -- statements in your name?

20 A. No.

21 MS. GRIFFIN: Okay. I'm going to ask the
22 court reporter to mark as Trustee's 5 another
23 customer -- BLMIS customer statement that's in the
24 name of Dianne K. Bienes. And it again also has
25 the same date, October 31, 1989.

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1 (Whereupon, Plaintiff's Exhibit 5 was marked
2 for identification.)

3 BY MS. GRIFFIN:

4 Q. Okay. Miss Bienes, we've given you Trustee's
5 4 -- I'm sorry, Trustee's 5, and also I'm returning to
6 you what we had just looked at which is the Trustee's
7 Exhibit No. 4.

8 A. Um-hum.

9 Q. I wanted to call your attention to the account
10 numbers. They're slightly different.

11 A. Yes.

12 Q. Were you aware that you had more than one
13 account at BLMIS?

14 MS. RESK: Object to form.

15 A. No.

16 MS. GRIFFIN: I'm not going to ask the
17 follow-up question if she wasn't aware.

18 BY MS. GRIFFIN:

19 Q. Could I ask you to look at Trustee's 5.

20 A. Um-hum.

21 Q. And this is the one that is account number
22 100212-3-0. Can you look at the sixth page,
23 Miss Bienes. It's -- the last three digits of the
24 Bates range are 183.

25 MS. GRIFFIN: Sixth page. They're

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1 double-sided, Terry.

2 A. Yes.

3 BY MS. GRIFFIN:

4 Q. Okay. Is that your signature, Miss Bienes?

5 A. Yes. It appears to be, yes.

6 Q. And, again, it appears to have the same
7 special notice at the top?

8 A. Yes.

9 Q. Does this do anything to refresh your
10 recollection on whether or not you reviewed these
11 statements or sent them on to Jerome Horowitz?

12 A. No.

13 Q. Okay.

14 A. It all looks the same to me, I don't know.

15 MS. GRIFFIN: Are we putting them here?

16 THE REPORTER: Yes.

17 MS. GRIFFIN: I'm going to ask the court
18 reporter to mark two exhibits. Just like the last
19 two we saw they are both customer statements on
20 BLMIS letterhead addressed to Dianne Bienes, this
21 time at 141 Bay Colony Drive, Fort Lauderdale. And
22 it's for -- dated October 31, 1990. The first
23 document has account number 1-00212-3-0 and the
24 second has 1-00212-7-0.

25 (Whereupon, Plaintiff's Exhibits 6 and 7 were

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1 marked for identification.)

2 MS. GRIFFIN: Okay, Terry, this is No. 6 and
3 this is No. 7.

4 BY MS. GRIFFIN:

5 Q. Okay. Miss Bienes, we're showing you what's
6 been marked as Trustee's Exhibit 6. Would you turn to
7 the fourth page, please? I'm sorry, the sixth page.

8 Do you see that signature there?

9 A. Um-hum.

10 Q. Is that your signature?

11 A. Yes.

12 Q. It appears -- I know it's rough to read, but
13 it appears to contain the same special notice up top.
14 I can at least read Jerome Horowitz. Don't have any
15 recollection about --

16 A. No.

17 Q. -- any procedure of signing these or sending
18 them on to Jerome Horowitz?

19 Okay. And same questions with regard to
20 Trustee's 7, last page, could you just confirm whether
21 or not that's your signature?

22 A. Yes, it appears to be.

23 Q. Okay. And, again, this does nothing to help
24 your recollection about this?

25 A. No.

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1 Q. Okay.

2 A. I don't remember signing these.

3 Q. Okay.

4 MS. GRIFFIN: All right, Chris, we're boring
5 the witness.

6 MS. RESK: You're boring me too. No.

7 MS. GRIFFIN: Where are we next?

8 Okay. I'm going to give a document to the
9 court reporter that's entitled at the top Port- --
10 well, it's blank in the middle, but I believe what
11 it says is Portfolio Management Report as of
12 12/31/05. And it's for St. James Associates,
13 Michael Bienes, Dianne Bienes. The Bates range for
14 this is at the bottom, 10-054 -- yes, thank you --
15 21-Bienes_006275.

16 (Whereupon, Plaintiff's Exhibit 8 was marked
17 for identification.)

18 BY MS. GRIFFIN:

19 Q. Here you go, Miss Bienes. That's Trustee's
20 Exhibit 8.

21 Okay. Miss Bienes, have you had an
22 opportunity to review Trustee's Exhibit 8?

23 A. Yes, I see --

24 Q. Do you --

25 A. Well, I mean, I -- I looked at the first page,

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1 but --

2 Q. Sure. Sure. Take your time. And then I note
3 that on the third page it's a different report --
4 actually they're all different. I just realized that.
5 So each one is a Portfolio Management Report --

6 A. Oh.

7 Q. -- for different dates?

8 A. Different years, yes.

9 Q. Yes, for St. James Associates. I just...
10 The first question I have is do you
11 recognize -- I know it's not exactly the best evidence
12 of handwriting, but do you recognize any of the
13 handwriting on here, the markings? Do you know who
14 might have written these on these?

15 MS. RESK: Object to form.

16 A. No, I don't know.

17 BY MS. GRIFFIN:

18 Q. Do you recognize this type of report?

19 A. Not really.

20 Q. Do you recall receiving any documents
21 concerning St. James Associates?

22 A. No, I didn't receive any documents --

23 Q. Who did?

24 A. -- for St. James. My husband I would assume
25 would get these.

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1 Q. Okay. Did he -- scratch that.

2 Were you involved in keeping any files for him
3 with respect --

4 A. No.

5 Q. -- to St. James?

6 A. No.

7 Q. No? So he took care of the documents himself?

8 A. Yes.

9 Q. And just to be clear, the Bates range suggests
10 that this was produced by your counsel in connection
11 with this action. Does this ring a bell with you at
12 all as a document you had in your possession?

13 A. I --

14 Q. I'm going to make a representation that my
15 understanding is this Bates range means your counsel
16 provided this to the trustee, which means it had to
17 have come from you.

18 MS. RESK: Object to form.

19 MS. GRIFFIN: I'm sorry, Terry, is it your
20 position that this was or was not?

21 MS. RESK: I mean, I don't know where we got
22 it.

23 MS. GRIFFIN: Okay. That's fair enough. Fair
24 enough.

25

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1 BY MS. GRIFFIN:

2 Q. All right. But you -- sitting here you don't
3 recognize it as something that you've ever seen before?

4 A. If I found it and sent it to them I don't
5 recall. I really don't.

6 Q. Okay. That's fine.

7 You know -- well, I'm going to draw your
8 attention to on the first page like a third of the way
9 down, close to halfway down, "Annualized return for the
10 current year 11 percent." Do you recall any annualized
11 returns for any of your accounts including St. James
12 Associates?

13 A. No.

14 Q. We're done with that one. Thank you.

15 A. I'm just -- I just want to look at what I
16 was -- dream about it.

17 MS. RESK: That would be a nightmare.

18 MS. GRIFFIN: Oh, this is another one? This
19 is 10/31/91.

20 MR. GALLAGHER: Yes.

21 MS. GRIFFIN: Okay.

22 Reverting back --

23 THE WITNESS: We're regressing.

24 MS. GRIFFIN: -- to another customer
25 statement. If I could ask the court reporter to

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1 please mark as Trustee's Exhibit 9 a BLMIS customer
2 stated -- statement in the name of Dianne K. Bienes
3 dated 10/31/91 for the account number 100212-3-0.

4 (Whereupon, Plaintiff's Exhibit 9 was marked
5 for identification.)

6 BY MS. GRIFFIN:

7 Q. Miss Bienes, we're showing you what's been
8 marked as Trustee's Exhibit 9. If you could take a
9 look --

10 MS. GRIFFIN: Oh, sorry, Terry. I used to be
11 good at multi-tasking.

12 BY MS. GRIFFIN:

13 Q. If you could take a look at the last page, is
14 that your signature?

15 A. No.

16 Q. And, again, is there anyone else who would be
17 authorized to sign your name on your behalf in
18 connection with this account?

19 A. No.

20 Q. Do you have any idea whose handwriting that
21 is?

22 A. No.

23 Q. Could it be your husband's?

24 A. Possibly.

25 Q. Okay.

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1 A. I'm not sure.

2 Q. Okay. Fair enough. Okay. Thank you.

3 MS. GRIFFIN: Okay. I'm going to ask the
4 court reporter to mark what appears to be a
5 transcript of the Frontline interview of Michael
6 Bienes and it bears the Bates range
7 10-05421-Bienes_006304.

8 (Whereupon, Plaintiff's Exhibit 10 was marked
9 for identification.)

10 BY MS. GRIFFIN:

11 Q. Miss Bienes, we're giving you a copy of
12 Trustee's Exhibit 10. Have you had an opportunity to
13 look at Trustee's Exhibit 10?

14 A. Well, I see what it is.

15 Q. Okay. Do you recall seeing this document
16 before?

17 A. No.

18 Q. If you could take a moment to look through
19 there's a lot of handwriting on this document. Could
20 you take a look through and tell me if you recognize
21 whose handwriting that is?

22 A. Looks like my husband's.

23 Q. Okay. Do you recall that he was interviewed
24 by Frontline?

25 A. Yes.

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1 Q. Yes? Were you there?

2 A. Not at the -- I was in the house, but I wasn't
3 at the --

4 Q. The interview took place at your house?

5 A. Yes.

6 Q. I see.

7 That's all the questions I had about that.

8 A. Oh, okay.

9 Q. Yeah. I just wanted to know if you recognized
10 the handwriting?

11 MS. RESK: I'm sorry, what exhibit was that,
12 11? 10?

13 MS. GRIFFIN: 10.

14 All right. I'm going to ask the -- the court
15 reporter to mark a document as an exhibit, the
16 first page of which reads "Option Agreement to:
17 Bernard L. Madoff Investment Securities" and it
18 starts with Bates range MADTBB03347901.

19 (Whereupon, Plaintiff's Exhibit 11 was marked
20 for identification.)

21 BY MS. GRIFFIN:

22 Q. Just to speed things along we're going to --
23 I'm going to ask you questions on -- about the
24 handwriting on page -- it looks like halfway through
25 the document. It's got what appears to be Mr. Bienes's

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1 signature, it ends 925.

2 A. Oh, 925.

3 Q. And I do want you to take the opportunity to
4 look through this.

5 A. Wait, you want me to look at 925 or you want
6 me to look through it?

7 Q. I'll let you -- we'll go to 925 first.

8 This purports to be what appears to be a
9 partnership account agreement, and do you see the
10 handwritten signature there?

11 A. Yes.

12 Q. Do you recognize it?

13 A. It looks like Michael Bienes's signature.

14 Q. And can you confirm that is, in fact, your
15 husband's signature?

16 MS. RESK: Don't guess. Tell her what you
17 know.

18 A. I said it appears to be his signature.

19 BY MS. GRIFFIN:

20 Q. Okay. Okay. Fair enough.

21 Do you recall signing any documents in
22 connection with your investments with BLMIS?

23 A. I don't recall, no.

24 Q. Fair question.

25 A. Did I sign this?

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1 Q. I'm going to direct your attention now to
2 about eight pages from that page, Bates range ending in
3 932.

4 A. Okay. 9 -- oh, 932. Oh, I'm sorry, it's both
5 sides. Okay.

6 Q. It's on the back, yes. We tried to condense
7 it for the travel.

8 So looking at page 932 it appears that
9 somebody signed your name. Is that your signature?

10 A. I -- I would assume it is, yes.

11 MS. RESK: Do not assume.

12 A. Oh -- oh, I mean it looks like. What am I
13 supposed to say?

14 BY MS. GRIFFIN:

15 Q. That's the best you can answer.

16 A. This I see is my signature.

17 Q. Okay. That one looks a little different to
18 you?

19 A. Yeah, but --

20 Q. You have -- do you have -- you don't have any
21 recollection I take it of signing these?

22 A. No.

23 Q. Okay.

24 A. I mean, I -- I see --

25 Q. If you could turn a couple pages later, 935 is

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1 the last three Bates range.

2 A. Yes.

3 Q. Okay. Is that your signature?

4 A. Yes.

5 Q. Okay. And the next page, 936.

6 A. Yes.

7 Q. Is that your signature?

8 A. Yes.

9 Q. Two pages later, 938. Is that your signature?

10 A. Yes.

11 Q. That's it for that.

12 A. That's it?

13 Q. Yes.

14 Did you have any reason to doubt that the one
15 you weren't sure about was your signature? If you can
16 answer.

17 A. I don't know.

18 Q. Okay. All right.

19 A. Maybe it was a late night. I don't know.

20 MS. GRIFFIN: Asking the court reporter to
21 mark a document with BLMIS at the top titled Margin
22 Agreement, Bates range MADTBB03348229.

23 (Whereupon, Plaintiff's Exhibit 12 was marked
24 for identification.)

25

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1 BY MS. GRIFFIN:

2 Q. Okay. Miss Bienes, if you could take a look
3 at number -- Trustee's Exhibit 12. And the question I
4 have for you is whether or not that's your signature on
5 the third page of the document, Bates range 237?

6 A. Yes.

7 Q. Okay. And sitting here do you have any
8 recollection of signing any agreements in connection
9 with your BLMIS investments?

10 A. No, I do not.

11 MS. GRIFFIN: Okay. All right. One more
12 time. We're going to give the court reporter a
13 document with a BLMIS header that says Partnership
14 Account Agreement on it, Bates range
15 MADTBB03348201.

16 (Whereupon, Plaintiff's Exhibit 13 was marked
17 for identification.)

18 BY MS. GRIFFIN:

19 Q. Okay. Miss Bienes, I'm giving you what's been
20 marked as Trustee's Exhibit 12, and if you could just
21 take a -- oh, pardon me, I'm giving you what's been
22 marked as Trustee's Exhibit 13. If you could look at
23 the third page ending in Bates range 203. Do you
24 recognize that signature?

25 A. Yes. It's Michael Bienes.

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1 Q. Okay. And do you recognize that as your
2 husband's handwriting?

3 A. Yes.

4 Q. Okay. The next page ending in 204, do you
5 recognize that signature?

6 A. Michael Bienes.

7 Q. And is that your husband's handwriting?

8 A. It appears to be, yes.

9 Q. Could you swing over to Bates range ending
10 209, that's a few pages later. If you could look at
11 209, 210 --

12 A. Okay.

13 Q. -- 211 --

14 A. Yes.

15 Q. -- and 213 and confirm whether or not those
16 are your signatures?

17 A. 9, yes. 11?

18 Q. Um-hum. 10?

19 A. Yes, 10, 11, yes.

20 Q. And 13?

21 A. 13, yes.

22 Q. And sitting here do you recall ever signing
23 any type of authorization in connection with your
24 accounts at BLMIS?

25 A. No.

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1 Q. Thank you.

2 MS. GRIFFIN: Okay. I'm giving to the court
3 reporter a document to be marked as an exhibit
4 entitled Customer Claim for Bernard L. Madoff
5 Investment Securities LLC In Liquidation
6 December 11, 2008. And it has your name Dianne K.
7 Bienes at the top.

8 (Whereupon, Plaintiff's Exhibit 14 was marked
9 for identification.)

10 BY MS. GRIFFIN:

11 Q. Miss Bienes, if you could take a look at this
12 exhibit which has been marked Trustee's Exhibit 14.

13 Do you recall ever having seen this document,
14 Trustee's Exhibit 14 before?

15 A. Truly I don't remember it.

16 Q. Okay. Do you remember whether or not you
17 filed a customer claim in connection with your private
18 account at BLMIS?

19 A. My what account?

20 Q. Your -- the account that had been in your
21 name, Dianne K. Bienes.

22 A. I don't remember.

23 Q. Okay. Could you please look at the fourth
24 page of the document, it's Bates range -- it's a
25 different weird number -- MWPTAP00084061.

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1 A. Yes.

2 Q. Okay.

3 A. Okay. 4061.

4 Q. Okay. Is that your signature on that page?

5 A. Yes.

6 Q. It purports to be in January 6th of 2009?

7 A. Yes.

8 Q. Does -- looking over this document, seeing
9 your signature does it help refresh your recollection
10 about whether or not you filed this claim?

11 A. I couldn't remember my own name on
12 January 2009.

13 Q. Okay. And if you could look up above under
14 number 9 it says, "Please list the full name and
15 address of anyone assisting you in the preparation of
16 this claim form." It's the last page again.

17 A. Yeah.

18 Q. Or almost the last page, sorry. Rebecca
19 McDonough, I think you mentioned her name before.

20 A. Yes.

21 Q. Would she --

22 A. CPA.

23 Q. Yeah. And would she have helped you out with
24 this if you had filed a claim?

25 A. I don't know to what extent, but --

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1 Q. Okay.

2 A. -- I assume so.

3 Q. But sitting here you have no recollection of
4 this?

5 A. No.

6 Q. Yeah.

7 Could you look at what is the second-to-last
8 page ending in Bates range 062. It appears to be a
9 customer statement in the name of Dianne K. Bienes
10 dated January 31, 1993.

11 A. Yes.

12 Q. Do you recall having these statements?

13 A. No.

14 Q. Do you have any idea where Miss -- if
15 Miss McDonough had helped you prepare this do you have
16 any idea where she would have gotten this statement
17 from?

18 A. No.

19 Q. Do you recognize the handwriting on this
20 document?

21 A. Which handwriting?

22 Q. On the front page.

23 A. No.

24 Q. No?

25 A. No.

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1 Q. Under number 9 which we just -- you know, that
2 lists Miss McDonough's name?

3 A. No, I don't know who wrote that.

4 Q. Okay.

5 A. Are we done with this?

6 Q. Yes.

7 MS. GRIFFIN: Okay. I'm asking the court
8 reporter to mark as Trustee 15, another Customer
9 Claim, this one in the Bernard L. Madoff Investment
10 Securities liquidation. This one is in the name of
11 St. James Associates.

12 (Whereupon, Plaintiff's Exhibit 15 was marked
13 for identification.)

14 BY MS. GRIFFIN:

15 Q. If you could take a moment just to look at
16 Trustee's 15.

17 Are you ready?

18 Looking at Trustee's 15, if you look at the
19 fourth page, Bates range ending 665, do you recognize
20 the handwritten signatures there?

21 A. Yes, my husband and myself.

22 Q. Do you have any recollection of this document,
23 Trustee's 15?

24 A. No.

25 Q. Were you aware that a claim had been filed on

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1 the -- in the Bernard L. Madoff Investment Securities
2 liquidation on behalf of St. James?

3 A. Yes.

4 Q. Okay. And do you have any idea who
5 prepared -- who filed that claim or caused it to be
6 filed?

7 A. I don't.

8 Q. Okay. Okay. Thank you.

9 MS. GRIFFIN: I'm going to ask the court
10 reporter to mark as Trustee Exhibit 16 a -- I don't
11 even know what you call this, but it looks
12 accountantese to me. It's a handwritten document
13 that has numbers on it and contains references to
14 Squadron Ellenoff, Lee Richards and others, and
15 it's Bates range 10-05421-Bienes_006274.

16 (Whereupon, Plaintiff's Exhibit 16 was marked
17 for identification.)

18 BY MS. GRIFFIN:

19 Q. Okay. Miss Bienes, if you could take a look
20 at Trustee's Exhibit 16.

21 A. Oh, my God.

22 Q. I do offer this up. We use it.

23 A. That won't -- I don't know if it will. Let me
24 try, thank you.

25 Yes.

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1 Q. Do you recognize this document, Miss Bienes,
2 Trustee's Exhibit 16?

3 A. I -- I think I've seen it before, but I don't
4 know where.

5 Q. Does the handwriting look at all familiar?

6 A. You mean who prepared it?

7 Q. Um-hum.

8 A. No, I don't know.

9 Q. Okay. There's some arrows at the bottom
10 with -- that then are drawn down to F & M. Do you see
11 those?

12 A. Yes.

13 Q. Do you have any idea what F & M stands for?

14 A. Frank and Michael.

15 Q. Was there ever an entity associated with the
16 name F & M to your knowledge?

17 A. I don't know.

18 Q. At the top on the upper left-hand side it says
19 1992. And then it has date June 23rd, Squadron
20 Ellenoff, and then there's some numbers there. Do you
21 have any idea what Squadron Ellenoff was?

22 A. No.

23 Q. Below that there's a listing November 24,
24 Lee S. Richards, and then there's a number next to that
25 name. Do you see that?

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1 A. Yes.

2 Q. Do you know who Lee Richards is?

3 A. I've heard the name, but I don't know who he
4 is.

5 Q. Okay. Do you know in what context you heard
6 the name?

7 A. No.

8 Q. Sitting here you have no idea who he is?

9 A. No.

10 Q. Okay. December 7th is the next entry,
11 Greenberg Traurig. There's a number next to that. Do
12 you see that?

13 A. Yes.

14 Q. Do you have any idea who -- what Greenberg
15 Traurig is?

16 A. A law firm.

17 Q. Um-hum. And do you know whether or not
18 Greenberg Traurig was involved in the 1992 SEC
19 investigation?

20 A. I don't know.

21 Q. Did Avellino & Bienes ever retain Greenberg
22 Traurig?

23 A. I think for partnership agreements.

24 Q. Okay. So the answer is yes?

25 A. Yes.

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1 Q. Okay. And how else --

2 MS. RESK: I'm sorry, do you know that or were
3 you thinking?

4 THE WITNESS: No, I know it.

5 MS. RESK: Okay.

6 THE WITNESS: No, I know it.

7 MS. RESK: Good.

8 BY MS. GRIFFIN:

9 Q. And when you say the partnership agreements
10 for what entity?

11 A. All.

12 Q. All. And when you say all could you list what
13 you mean?

14 A. Avellino & Bienes, Grosvenor, St. James,
15 whatever. Ongoing over the years.

16 Q. If you could look a little further down on the
17 document there's the number 1993 on the far left and
18 then it lists Squadron Ellenoff, Greenberg Traurig, and
19 then below that Pricewaterhouse and then a number next
20 to that.

21 A. Yes.

22 Q. And can you just -- do you have an
23 understanding of whether Pricewaterhouse was involved
24 in the 1992 SEC investigation?

25 A. Yes, they were retained to do the audit.

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1 Q. Do you know whether or not Avellino & Bienes
2 had to pay attorney's fees as a result of that 1992 SEC
3 investigation?

4 A. I don't know.

5 Q. But you were aware that attorneys did
6 represent Avellino & Bienes --

7 A. Yes.

8 Q. -- in connection with that?

9 A. Yes.

10 Q. So --

11 A. Yes.

12 Q. -- you would assume that they --

13 A. Right.

14 Q. -- incurred fees?

15 A. But she said I shouldn't say I assume, so I'm
16 not assuming.

17 Q. Got you. You said you think you've seen this
18 document before. Do you have any context in which you
19 may have seen it?

20 A. I don't know.

21 Q. Okay. Okay, we're done.

22 MS. RESK: Oh, good. Forever.

23 MS. GRIFFIN: Not completely, Terry. Don't
24 get excited.

25 All right. I'm going to ask the court

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1 reporter to mark as Trustee's Exhibit 17 what
2 appears to be a letter dated December 16th, 2008,
3 that appears to be at the bottom with the printed
4 name Michael Bienes and it is addressed to Mr. Lee
5 Richards care of Bernard L. Madoff. It's on Bates
6 stamp MADTSS00212074.

7 (Whereupon, Plaintiff's Exhibit 17 was marked
8 for identification.)

9 BY MS. GRIFFIN:

10 Q. Miss Bienes, if you could just take a moment
11 to review Trustee's Exhibit 17.

12 Oh, I'm sorry, have you had an opportunity to
13 review Trustee's Exhibit 17?

14 A. Slightly.

15 Q. Have you ever seen this Trustee's Exhibit 17
16 before?

17 A. Yes.

18 Q. And in what context did you see it?

19 A. I don't recall.

20 Q. Do you know whether or not Mr. Bienes prepared
21 Trustee's Exhibit 17?

22 A. I don't know.

23 Q. Can you look at the first page at the top
24 there's a fax line there.

25 A. Yes.

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1 Q. And a number at the top 02074085656. Do you
2 see that?

3 A. Yes.

4 Q. And next to it letters DMB space FAX space LDN
5 space?

6 A. Right.

7 Q. Do you have any idea what those numbers or
8 what those letters might mean?

9 A. Yes. I would assume that's our London fax.

10 Q. Okay. And you had a fax in your London home?

11 A. Yes.

12 Q. Okay. Do you know -- strike that.

13 Can you look at the last page and all of those
14 phone numbers, fax numbers, mobile numbers, and there's
15 also an email address.

16 A. Yes.

17 Q. Do you recognize any of those?

18 A. Yes.

19 Q. Okay. And what are they?

20 A. They're my numbers.

21 Q. Okay.

22 A. The first three would be London and the
23 following three would be Florida.

24 Q. And that email address at the bottom,
25 DMBienes@AOL.com?

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1 A. That's mine.

2 Q. That's yours?

3 Were you involved at all in preparing a letter
4 to Mr. Richards?

5 A. I don't recall.

6 Q. Do you recall --

7 A. I don't recall this letter at all.

8 Q. Okay. Do you have any reason to doubt that
9 Mr. Bienes sent this letter to Mr. Richards from
10 your --

11 A. No, I don't doubt it --

12 Q. Okay.

13 A. -- because it was sent from my fax number.

14 Q. Okay. Thank you.

15 A. Are we done with this?

16 Q. Yes, thank you.

17 A. I don't want to give it back if I need to keep
18 it.

19 Q. Did there come a time that Mr. Bienes retired?

20 A. Yes.

21 Q. And do you recall when that was?

22 A. From accounting or from business?

23 Q. From business in general.

24 A. I guess sometime in the '80s.

25 Q. When did he retire from account -- from

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1 providing accounting services?

2 A. Well, I know that was in the '80s, but exactly
3 when I don't know.

4 Q. And so after he retired from providing
5 accounting services were you employed at that time?

6 A. No.

7 Q. Where did your and Mr. Bienes's income come
8 from after Mr. Bienes retired?

9 MS. RESK: Object to form.

10 BY MS. GRIFFIN:

11 Q. Did you have an income after Mr. Bienes
12 retired from accounting?

13 MS. RESK: And by "you" you mean her
14 individually or them as a couple --

15 MS. GRIFFIN: Together.

16 MS. RESK: -- or him?

17 MS. GRIFFIN: Together.

18 BY MS. GRIFFIN:

19 Q. So after Mr. Bienes ceased --

20 A. From --

21 Q. -- providing accounting services.

22 A. -- income from investments.

23 Q. And those investments were with Mr. Madoff?

24 A. Mostly, yes.

25 Q. What other sources of income did you have from

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1 the 1980s on? I know that's a long time.

2 A. I don't really remember.

3 Q. Did you invest with any other investment
4 managers?

5 A. I didn't, no.

6 Q. Did Michael?

7 A. I don't know.

8 Q. Do you have any idea whether you diversified
9 your investments outside of Mr. Madoff?

10 A. No, I don't know.

11 Q. What other sources of income can you recall,
12 if any, outside of your Madoff investments?

13 A. I can't.

14 Q. So to your knowledge that's --

15 A. Yeah.

16 Q. -- the only source of income you knew of?

17 MS. RESK: Object to form.

18 BY MS. GRIFFIN:

19 Q. You can answer.

20 A. Hum?

21 Q. Other than --

22 A. I'm sorry.

23 Q. I'll rephrase.

24 Other than the invest -- the income that you
25 earned from the Madoff investments what other sources

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1 of income did you and Mr. Bienes have after he retired?

2 A. I don't recall.

3 Q. Mr. Bienes had testified that around 1992-93
4 he approximated that you had about 17 to \$18 million
5 invested with BLMIS. Does that seem right to you?

6 MS. RESK: Object to form.

7 BY MS. GRIFFIN:

8 Q. You can answer.

9 A. I -- I don't know.

10 Q. Do you know what your net worth was in 1992?

11 A. No, I don't.

12 Q. Do you know what your net worth was just
13 before Madoff confessed to the fraud in December 2008?

14 A. No, I don't.

15 Q. Did you have or are you aware of what your --
16 strike that.

17 Who would have known what your net worth was
18 at the time that Madoff confessed?

19 A. I don't think anyone would have known.

20 Q. Do you know how much money you had invested
21 with Madoff when he confessed in December 2008?

22 A. Approximately 50 million in St. James and 20
23 million in the pension plan.

24 Q. What do you mean by the pension plan?

25 A. We had a pension plan.

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1 Q. And what was that plan called? Did it have an
2 account with Madoff?

3 A. Yes.

4 Q. What was the name on that account?

5 A. I think it was Mayfair. I don't really
6 recall.

7 Q. Who else was involved Mayfair, if anyone?

8 A. As far as I --

9 MS. RESK: Object to form.

10 You can answer.

11 A. As far as I know the Avellinos and us.

12 BY MS. GRIFFIN:

13 Q. Okay. Was Mayfair a partnership?

14 A. I don't know.

15 Q. But you were -- strike that.

16 At the time Madoff confessed in December 2008,
17 to your knowledge did you have any other investments
18 anywhere else?

19 A. No.

20 THE VIDEOGRAPHER: Counsel, five minutes until
21 media change.

22 BY MS. GRIFFIN:

23 Q. Would it be fair to say that your and
24 Mr. Bienes's sole source of income since the '80s or
25 primary source of income was Madoff investments?

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1 A. I would think so, yes.

2 Q. It enabled you to have nice homes?

3 A. Yes.

4 Q. You had a house -- a home in London, not a
5 house, sorry?

6 A. We rented an apartment in London.

7 Q. Did you have any other real estate properties?

8 A. No.

9 Q. No?

10 Did you own artwork?

11 A. No.

12 Q. Did you or Michael or anyone on your behalf
13 file any claims with regard to your Madoff investments
14 with anyone other than the SIPA Trustee?

15 A. No.

16 Q. So you didn't file anything or Michael didn't
17 file anything with the Madoff Victims Funds which
18 was/is administered by Richard Breeden?

19 A. What is that?

20 Q. The Madoff's Victims Fund.

21 A. I don't know what it is --

22 Q. Okay.

23 A. -- so I can't answer you.

24 Q. But, to your knowledge, the only claim you
25 filed is in the SIPA liquidation?

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1 A. That's all I know about.

2 Q. Okay. With Madoff's confessing and your
3 income having been primarily derived from him how are
4 you currently meeting expenses today?

5 MS. RESK: Objection. That's totally
6 irrelevant.

7 MS. GRIFFIN: Okay.

8 BY MS. GRIFFIN:

9 Q. Is anybody else paying your attorney's fees in
10 connection with this action?

11 A. Yes.

12 Q. Who?

13 A. Mr. Avellino.

14 Q. Have you discussed that arrangement directly
15 with Mr. Avellino?

16 A. Have I discussed?

17 Q. The fact that he would pay your legal fees.
18 Were you involved in any discussions?

19 A. No, I was not involved.

20 Q. And who was, if anyone?

21 A. My husband.

22 Q. Did you file any insurance claims in
23 connection with your Madoff investments?

24 A. Oh, I don't remember.

25 Q. And just to be clear, did Michael or anyone on

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1 your behalf file any insurance claims for the Madoff
2 investments?

3 A. What kind of insurance?

4 Q. I don't know, I'm just asking. People have
5 filed claims with insurance companies, so I'm not
6 saying it's covered, I'm just asking a question. To
7 your knowledge.

8 A. I don't -- I don't really recall.

9 Q. Have you recovered any monies in connection
10 with your Madoff investments from any sources?

11 A. No.

12 Q. After Madoff confessed in 2008 did you and
13 Michael retain attorneys?

14 MS. RESK: Object to form. Time frame.

15 BY MS. GRIFFIN:

16 Q. After Madoff confessed in December 2008 to his
17 fraud did you retain attorneys in connection with your
18 Madoff investments?

19 A. We retained attorneys because we had a huge
20 loan outstanding and our source of income had
21 disappeared.

22 Q. And what did those attorneys do in connection
23 with that loan that was outstanding?

24 MS. GRIFFIN: This -- actually this may be a
25 good time to break. He has to change the --

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1 THE WITNESS: Answer?

2 MS. GRIFFIN: Yeah, sure.

3 THE WITNESS: Oh.

4 MS. GRIFFIN: You can wait until -- we'll
5 break and I'll rephrase the question.

6 THE WITNESS: Okay. Okay.

7 THE VIDEOGRAPHER: Going off the record. The
8 time is 11:22.

9 (Recess taken at 11:22 a.m.)

10 (Deposition resumed at 11:33 a.m.)

11 THE VIDEOGRAPHER: Back on the video record.
12 The time is 11:33.

13 BY MS. GRIFFIN:

14 Q. There's just a couple questions I want to
15 follow up that I asked you earlier.

16 A. Okay.

17 Q. Forgive me for jumping out of order.

18 Back in 1992 did you have an understanding
19 about why the SEC was investigating Avellino & Bienes?

20 A. What I was told?

21 MS. RESK: By whom?

22 THE WITNESS: By my husband.

23 MS. RESK: You're not going to answer that.

24 BY MS. GRIFFIN:

25 Q. But you had an understanding about why they

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1 were investigating you?

2 A. Once it happened, yes.

3 Q. And what was that understanding?

4 A. What I was told by my husband.

5 MS. GRIFFIN: Are you directing her not to
6 answer?

7 MS. RESK: Yeah.

8 BY MS. GRIFFIN:

9 Q. Okay. Did you or Mr. Bienes or anyone on your
10 behalf file for any federal tax refund in connection
11 with your Madoff investments?

12 A. Yes.

13 Q. And can you elaborate on what you did file?

14 A. What we did file?

15 Q. Um-hum.

16 A. I -- I don't know how to answer that. What do
17 you mean what we did file?

18 Q. When did you file for that federal tax refund
19 in connection with your Madoff investments?

20 A. When -- I guess when it was allowed.

21 Q. Okay. And were you granted any tax refund?

22 A. Yes.

23 Q. And do you know how much you were granted?

24 A. No.

25 Q. Did you file any state tax refunds in

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1 connection?

2 A. We don't have state tax.

3 Q. And why is that?

4 A. We don't have state tax in Florida.

5 Q. Okay.

6 A. Oh --

7 Q. For the record.

8 A. -- I'm sorry.

9 Q. For the record.

10 A. I'm sorry.

11 (Whereupon, Plaintiff's Exhibit 18 was marked
12 for identification.)

13 MS. GRIFFIN: Okay. I've asked the court
14 reporter to mark as the Trustee's Exhibit 18 a
15 document that has the letterhead the US -- United
16 States Securities and Exchange Commission and it's
17 got a date of January 22, 2009, and it's addressed
18 to Michael Bienes at 141 Bay Colony Drive,
19 Fort Lauderdale.

20 BY MS. GRIFFIN:

21 Q. Could you take a look at --

22 A. Sure.

23 Q. -- Trustee's Exhibit 18?

24 A. Yes.

25 Q. Okay. Have you ever seen Trustee's Exhibit 18

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1 before?

2 A. I'm -- I'm not sure. I don't --

3 Q. Okay.

4 A. I'm not really aware of this.

5 Q. Were you aware that the SEC had served a
6 subpoena on Mr. Bienes after Madoff confessed in
7 December 2008?

8 A. No.

9 Q. Did you ever become aware that he had been
10 served with a subpoena?

11 A. No, I didn't.

12 Q. Did you ever become aware that St. James had
13 been served with a subpoena by the SEC?

14 A. No.

15 Q. Did -- forgive me if you've answered this
16 already. Did you maintain any files in connection with
17 St. James's investments?

18 A. No.

19 Q. Who did, if anybody?

20 A. My husband.

21 Q. Just for the record to be clear, so you did
22 not assist him in responding to any SEC subpoena to
23 your knowledge?

24 A. No. No, I wasn't aware of it.

25 Q. Do you currently have in your custody --

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1 sorry, we're done with that. Thank you.

2 Do you have in your possession any records
3 regarding the St. James Associates BLMIS investment
4 accounts?

5 A. No.

6 Q. Do you have in your possession any records
7 regarding any investments in BLMIS?

8 A. No.

9 Q. Just to be clear, did the SEC ever interview
10 you after Madoff confessed in 2008?

11 A. No.

12 Q. Do you know whether the SEC interviewed or
13 deposed your husband in connection with Madoff?

14 A. They did not.

15 Q. Okay. Did you ever speak with the Federal
16 Bureau of Investigation after Madoff confessed in
17 December 2008?

18 A. No.

19 Q. Do you know whether Mr. Bienes spoke to the
20 FBI?

21 A. I would have no idea.

22 Q. Do you have any emails or texts about your
23 BLMIS investments?

24 A. Do I have any --

25 Q. Emails --

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1 A. No, I --

2 Q. -- or texts? No?

3 A. I never had any email contact with Madoff.

4 Q. Okay. Did you ever -- do you know what a
5 litigation hold is?

6 A. A litigation hold?

7 Q. Yes, do you know what that is?

8 A. No.

9 Q. After Madoff confessed in 2009 did you and
10 your husband endeavor to preserve records relating to
11 your investments in BLMIS?

12 A. I didn't have any records.

13 Q. But your husband did according to your
14 testimony; isn't that right?

15 MS. RESK: Object to form.

16 A. I --

17 BY MS. GRIFFIN:

18 Q. To your knowledge did Mr. Bienes preserve any
19 records concerning your BLMIS investments after Madoff
20 confessed in December of 2008?

21 A. I don't know.

22 Q. Do you regularly delete emails on a daily
23 basis?

24 A. Yes.

25 Q. When did you start that practice?

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1 A. I've always done it.

2 Q. How long have you had an email address?

3 A. I'm not sure.

4 Q. When did you hire attorneys in connection with
5 your Madoff investments?

6 A. You mean after?

7 Q. After Madoff confessed in December 2008.

8 A. Sometime I guess in 2009.

9 MS. RESK: Don't guess.

10 BY MS. GRIFFIN:

11 Q. Do you remember what law firm represented you?

12 A. In this case originally?

13 Q. Actually you had just said that you hired
14 attorneys in connection with your Madoff investments
15 after 2008 and I'm asking you what law firm that was?

16 A. Broad and -- excuse me -- Broad and Cassels
17 [sic].

18 Q. And in what connection did they represent you
19 regarding your Madoff investments?

20 A. I have no idea.

21 Q. Did you communicate with them or did your
22 husband?

23 A. Basically my husband.

24 Q. Do you regularly delete texts on a daily
25 basis?

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1 A. Yes.

2 Q. Why is that?

3 A. Because they're of no consequence.

4 Q. So even after this lawsuit was filed in 2010
5 you continued to delete emails and texts on a daily
6 basis?

7 A. Yes.

8 Q. Have you had any communications with Madoff or
9 any member of his family since he confessed in
10 December 2008?

11 A. No.

12 Q. Are you aware if Mr. Bienes had any
13 communications with Madoff or any member of his family?

14 A. None.

15 Q. Were you surprised to learn that Avellino &
16 Bienes's former attorney, Ira Sorkin, was representing
17 Madoff?

18 MS. RESK: Object to form.

19 BY MS. GRIFFIN:

20 Q. You can answer.

21 MS. RESK: Can you rephrase it, I mean --
22 please.

23 BY MS. GRIFFIN:

24 Q. Did there come a time where you learned Ira
25 Sorkin was representing Madoff?

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1 A. Yes.

2 Q. Yes?

3 Were you surprised at that having -- him
4 having represented Avellino & Bienes?

5 A. I had no thought about it one way or the
6 other.

7 Q. Are you aware whether anyone else representing
8 you or Michael has reached out to Mr. Madoff since
9 2008?

10 A. No.

11 MS. GRIFFIN: We're done.

12 MS. RESK: I have just a few.

13 No, no, keep it on for just a little bit --

14 THE WITNESS: Oh.

15 MS. RESK: -- because I have a few follow-up
16 questions.

17 THE WITNESS: Oh.

18 CROSS-EXAMINATION

19 BY MS. RESK:

20 Q. Do you know whether or not Frank Avellino
21 monitored any of the statements that we're talking
22 about today?

23 A. No.

24 Q. Do you know if or how often he would look at
25 the statements?

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1 A. No.

2 Q. When you -- when A & B paid anything as a
3 result -- I'm sorry. When A & B paid anything after
4 you became a partner were checks made out just to
5 Mr. Bienes or to both of you?

6 MS. GRIFFIN: Objection. I just don't
7 understand the question.

8 MS. RESK: Okay.

9 BY MS. RESK:

10 Q. Payments were made by A & B after you became a
11 partner of A & B. Do you know to whom checks from
12 A & B representing those payments were made payable?

13 A. No, I don't recall.

14 MS. GRIFFIN: Objection to form. What
15 payments were made by A & B? That is my --

16 MS. RESK: The payments that she said earlier
17 were made by A & B.

18 MS. GRIFFIN: To her, to --

19 MS. RESK: Well, that's the question. She
20 said they were made by A & B, but I don't know to
21 whom they were made.

22 A. You mean when Michael and I were 50/50
23 partners --

24 Q. Yes.

25 A. -- were they made out to Dianne and Michael

CONFIDENTIAL

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1 Bienes or --

2 Q. Yes.

3 A. -- just Michael Bienes?

4 Q. Right.

5 A. I don't recall.

6 Q. Okay. So you don't know who they were made
7 payable to?

8 A. No. But we were considered one unit.

9 Q. Do you know in reference to all of the
10 investments we've been discussing today whether or not
11 they were made with Bernie Madoff individually or
12 whether he was -- he had a formal entity?

13 A. As far as I knew it was made with his formal
14 entity.

15 Q. Do you know whether or not he actually -- they
16 were made with an LLC or whether he was just doing
17 business under the name Bernard L. Madoff --

18 MS. GRIFFIN: Object --

19 Q. -- Investment Securities?

20 A. I have no idea.

21 MS. GRIFFIN: Objection.

22 BY MS. RESK:

23 Q. Do you know whether or not when investments
24 were made they were made with a formal entity that's --
25 that's Bernard L. Madoff Investment Securities LLC or

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1 just to Bernard Madoff?

2 A. I would have --

3 MS. GRIFFIN: Object to form.

4 BY MS. RESK:

5 Q. You can answer it.

6 A. I would have no idea.

7 Q. Do you know, do you have any knowledge as to
8 when those investments were made to whom they were
9 actually made?

10 A. No.

11 MS. RESK: Nothing else I don't think. Let me
12 look.

13 I'm done.

14 MS. GRIFFIN: We're done.

15 THE VIDEOGRAPHER: Going off the record. The
16 time is 11:47. We're off.

17 (The deposition was concluded at 11:47 a.m.)

18 (Reading and signing of the deposition was not
19 waived by the witness and all parties.)

20

21

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1 CERTIFICATE OF OATH

2 STATE OF FLORIDA

3 COUNTY OF BROWARD

4

5 I, Janet L. McKinney, Registered Professional
6 Reporter, Florida Professional Reporter, Certified
7 LiveNote Reporter, Notary Public, State of Florida,
8 certify that DIANNE BIENES personally appeared before
9 me on November 7, 2019 and was duly sworn.

10 Signed this 8th day of November, 2019.

11

12

13

14 Janet L. McKinney
15 Registered Professional Reporter
16 Florida Professional Reporter
17 Certified LiveNote Reporter
18 Notary Public, State of Florida
19 Commission No.: GG182475
20 Expires: June 2, 2022

21

22

23

24

25

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1

ERRATA SHEET

DO NOT WRITE ON THE TRANSCRIPT

2

ENTER CHANGES ON THIS PAGE

3

Page	Line	Change	Reason

9

JURAT

10

I, DIANNE BIENES, have read the foregoing
deposition and hereby affix my signature that same is
true and correct, except noted above.

12

DIANNE BIENES

13

THE STATE OF _____
COUNTY OF _____

14

15

16

Before me, _____, on this day
personally appeared _____, known to me or
proved to me on the oath of or through _____
(description of identity card or other document) to be
the person whose name is subscribed to the foregoing
instrument and acknowledged to me that he/she executed
the same for the purpose and consideration therein
expressed.

20

Given under my hand and seal of office on
this _____ day of _____.

21

22

NOTARY PUBLIC IN AND FOR

23

THE STATE OF _____

24

My Commission Expires: _____.

25

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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA

3 COUNTY OF BROWARD

4

5 I, Janet McKinney, Registered Professional
6 Reporter, Florida Professional Reporter, Certified
7 LiveNote Reporter, certify that I was authorized to and
8 did stenographically report the deposition of DIANNE
9 BIENES, pages 6 through 106; that a review of the
10 transcript was not requested; and that the transcript
11 is a true record of my stenographic notes.

12 I further certify that I am not a relative,
13 employee, attorney, or counsel of any of the parties,
14 nor am I a relative or employee of any of the parties'
15 attorneys or counsel connected with the action, nor am
16 I financially interested in the action.

17 Dated this 8th day of November, 2019.

18

19

20

21 Janet L. McKinney, RPR, FPR, CLR
22 Registered Professional Reporter
23 Florida Professional Reporter
24 Certified LiveNote Reporter
25

CONFIDENTIAL

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